



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2012-32

Legistar #: 20120789

City Council Hearing: Wednesday, September 12, 2012 – 7:00 p.m.

Applicant: James Friedewald
272 Washington Avenue
Marietta, GA 30060

Property Owner: Saint Joseph Catholic Church
Archbishop Wilton D. Gregory
Archbishop of Atlanta and his successors
87 Lacy Street
Marietta, GA 30060

Address: 558 Saint Joseph Way

Land Lot: 10860 **District:** 16 **Parcel:** 0370

Council Ward: 4 **Existing Zoning:** R-4 (Single Family Residential 4 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the planted border area, including all required trees, along Saint Joseph Way from 10' to 2'. §712.08 (G)(2)(a)

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



558 Saint Joseph Way



Future planted border area

Recommended Action:

James Friedewald, petitioner for the Saint Joseph Catholic Church, is requesting a variance for the property at 558 Saint James Way. The subject property is approximately 0.41 acres in area and is zoned R-4 (Single Family Residential – 4 units/acre) with a Special Land Use Permit (SLUP Z2009-01) for a place of assembly. All of the surrounding properties are also zoned R-4; however, the properties immediately to the north and east are also operated as part of the church facility. The properties to the immediate south and west across Saint Joseph Way are single family residences.

One of the stipulations required under the SLUP included allowing the use of the subject property as an unpaved parking lot for two years. An additional two year extension was granted in January 2011 (#20101346). At this time, the applicant has initiated the preparation of plans for paving the parking lot. However, the applicant is requesting a variance to allow the landscape strip/planted border area along Saint Joseph Way be reduced from the required 10' to 2' in order to provide two additional parking spaces, but in the process, two (2) parking lot trees would be eliminated.



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There are overhead utility lines running along the property's frontage on Saint Joseph Way that could potentially interfere with the placement of the street trees. Under Section 712.08(N) staff has various methods of dealing with situations where over or below ground utilities may interfere with street tree placement. Alternatives include: 1) relocating the street trees elsewhere within the landscape strip or front setback; 2) paying into the Tree Replacement Fund, or; 3) installing a columnar or smaller canopied tree. However, staff does not have the authority to reduce the border area width altogether, as the applicant has requested.

If the 10' landscape strip were provided, there would be more room to shift the trees further from the right-of-way and out of the way of the overhead lines. Reducing the strip to 2' eliminates the possibility that street trees could be provided there, as it would force the trees immediately below the lines.

It should be noted that there is no buffer required on this site because the church property and the adjacent residential property are both zoned R-4, Single Family Residential, and therefore no buffer is required. A 6 ft. privacy fence will be erected along the property line to provide a visual barrier between the church parking area and the residence.